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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/534,196 | 03/24/2000 | Christian Francois Michel Dujarric | Q58472 | 2963 |

7590 12/20/2002

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EXAMINER

KOCZO JR, MICHAEL

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3746

DATE MAILED: 12/20/2002

21

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/534,196

Applicant(s)

DUJARRIC, CHRISTIAN
FRANCOIS MICHEL

Examiner

Michael Koczo, Jr.

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-15 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7, 14, 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's arguments filed on November 21, 2002 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 112

Claims 2 to 7, 14 and 15 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims recite that the separation triggering elements have a spacing sufficient so as to produce distinct zones of jet separation to form a three-dimensional separation of the flow. However, the specification fails to disclose what is the minimum sufficient spacing which would produce the desired zones of jet separation.

Claim 14 recites "at least two mutually spaced separation triggering elements". However, there is clearly a limit on the number of mutually spaced separation triggering elements which would produce the desired effect. There is no mention of this limit in the specification.

Applicant's invention purports to be an improvement over US Pat. No. 3,925,982 (Mueller) and the specification states that the injection points of Mueller are closely spaced and therefore do not produce a three-dimensional separation of the flow. This raises the question of what is the minimum sufficient required spacing for forming a three-dimensional separation of the flow.

Art Unit: 3746

Claims 2 to 7, 14 and 15 are also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Because of the basis of these claims on an inadequate disclosure, the scope thereof cannot be clearly ascertained.

Claim Rejections - 35 USC § 102

Claims 2 to 7, 14 and 15, as understood, are rejected under 35 U.S.C. 102(b) as being structurally anticipated by either of Mueller (see figure 5) or Rannie et al. (see figures 4 and 5). Whether or not three-dimensional separation of the flow occurs is a function of the minimum spacing of the separation triggering elements, which is not claimed. The claims recite "at least two separation triggering elements" which is readable on either of Mueller or Rannie et al.

Reciting that the spacing of the triggering elements is "sufficient" for generating distinct zones of jet separation is merely a recitation of a desired result, which is not patentably limiting. No specific spacing is recited.

Applicants arguments are merely allegations of differences between the operation of the nozzles of Mueller and Rannie et al. Applicant fails to point out how the claims define structurally over the prior art.

Claims 8 to 13 stand withdrawn from further consideration as being drawn to a non-elected species.

Art Unit: 3746


Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is 703-306-5648.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.


Michael Koczo, Jr.
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December 18, 2002
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